

1 CARMEN PLAZA DE JENNINGS (SBN 091742)
2 cpdjennings@pjclawyers.com
3 JAYNE BENZ CHIPMAN (SBN 140048)
4 jchipman@pjclawyers.com
5 PLAZA DE JENNINGS & CHIPMAN LLP
6 1000 Marina Village Parkway, Suite 110
7 Alameda, CA 94501
8 Telephone: (510) 319-7080
9
10

11 Attorneys for Defendants
12 THE FOOTHILL-DE ANZA COMMUNITY
13 COLLEGE DISTRICT, DE ANZA COMMUNITY
14 COLLEGE, LEE LAMBERT, LLOYD A.
15 HOLMES, PATRICK AHRENS, LAURA CASAS,
16 PEARL CHENG, PETER LANDSBERGER,
17 GILBERT WONG AND ALICIA CORTEZ,
18 THOMAS RAY, CHRISTINA ESPINOSA-PIEB,
19 and LYDIA HEARN
20

21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

1 TABIA LEE,

Case No. 5:23-cv-03418-PCP

16 Plaintiff,

DEFENDANTS' REQUEST FOR
JUDICIAL NOTICE

17 vs.

Date: October 3, 2024
Time: 10:00 a.m.
Judge: Hon. P. Casey Pitts
Courtroom: 8

18 THE FOOTHILL-DE ANZA
19 COMMUNITY COLLEGE DISTRICT,
20 DE ANZA COLLEGE, PATRICK J.
21 AHRENS, LAURA CASAS, PEARL
22 CHENG, PETER LANDSBERGER, LEE
23 LAMBERT, and GILBERT WONG, in
24 their official capacities; CHRISTINA
25 ESPINOSA-PIEB, in her official and
individual capacities; ALICIA CORTEZ,
LYDIA HEARN, LLOYD A. HOLMES,
and THOMAS RAY, in their individual
capacities,

Defendants.

1 TO THE COURT, PLAINTIFF, AND HER ATTORNEYS OF RECORD:

2 **REQUEST FOR JUDICIAL NOTICE**

3 Defendants The Foothill-De Anza Community College District, De Anza Community
 4 College, Lloyd A. Holmes, Patrick Ahrens, Laura Casas, Pearl Cheng, Peter Landsberger, Lee
 5 Lambert, Gilbert Wong, Alicia Cortez, Thomas Ray, Christina Espinosa-Pieb, and Lydia Hearn
 6 (collectively, “Defendants”) respectfully request that the Court take judicial notice of the
 7 documents attached to the Declaration of Jayne Benz Chipman (“Chipman Declaration”) as
 8 Exhibits 1 through 6.

9

10 • Attached hereto as Exhibit 1 is a true and correct copy of the Job Description for
 11 the Director of the Office of Equity, Social Justice, and Multicultural Education,
 12 referenced in the Second Amended Complaint at ¶ 30.

13 • Attached hereto as Exhibit 2 is a true and correct copy of Plaintiff’s “Tabia Lee,
 14 EdD Report to De Anza College Academic Senate November 29, 2021,”
 15 referenced in the Second Amended Complaint at ¶¶ 103, 104.

16 • Attached hereto as Exhibit 3 is a true and correct copy of a November 16, 2021
 17 email exchange between Plaintiff and the De Anza College Institutional Research
 18 and Planning Chair, Mallory Newell, Ed.D., referenced in the Second Amended
 19 Complaint at ¶¶ 87, 88.

20 • Attached hereto as Exhibit 4 is a true and correct copy of the February 23, 2023
 21 Notice of Non-Renewal letter to Tabia Lee.

22 • Attached hereto as Exhibit 5 is a true and correct copy of a December 6, 2022
 23 letter posted on the District’s website referenced in the Second Amended
 24 Complaint at ¶ 171.

25 • Attached hereto as Exhibit 6 is a true and correct copy of the Notice of Case
 26 Closure and Right to Sue letter with attachment that Plaintiff’s legal counsel
 27 provided to Defense counsel on September 18, 2023.

28 This request is made pursuant to Rule 201 of the Federal Rules of Evidence and the

1 authorities cited below. This request is made in support of Defendants' Motion to Dismiss the
 2 Second Amended Complaint filed by Plaintiff Tabia Lee.

3 **BASIS FOR REQUESTING JUDICIAL NOTICE**

4 On a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), the court may
 5 "consider certain materials – documents attached to the complaint, documents incorporated by
 6 reference in the complaint, or matters of judicial notice – without converting the motion to
 7 dismiss into a motion for summary judgment." *United States v. Ritchie*, 342 F.3d 903, 908 (9th
 8 Cir. 2003).

9 Plaintiff's Second Amended Complaint ("SAC") explicitly references the alleged contents
 10 of the following documents but does not attach a copy of the document:

- 11 • Job Description for the Director of the Office of Equity, Social Justice, and
 12 Multicultural Education, referenced in the Second Amended Complaint at ¶ 30;
- 13 • "Tabia Lee, EdD Report to De Anza College Academic Senate November 29,
 14 2021," referenced in the Second Amended Complaint at ¶¶ 103, 104;
- 15 • November 16, 2021 email exchange between Plaintiff and the De Anza College
 16 Institutional Research and Planning Chair, Mallory Newell, Ed.D., referenced in
 17 the Second Amended Complaint at ¶¶ 87, 88;
- 18 • February 23, 2023 Notice of Non-Renewal letter to Tabia Lee;
- 19 • December 6, 2022 letter posted on the District's website referenced in the Second
 20 Amended Complaint at ¶ 17; and
- 21 • Plaintiff's September 14, 2023 Notice of Case Closure and Right to Sue letter from
 22 the California Civil Rights Department is explicitly referenced in the Second
 23 Amended Complaint at ¶ 303.

24 Under the incorporation by reference doctrine, "documents whose contents are alleged in
 25 a complaint and whose authenticity no party questions, but which are not physically attached to
 26 the pleading, may be considered in ruling on a Rule 12(b)(6) motion to dismiss." *Branch v.*
 27 *Tunnell*, 14 F.3d 449, 454 (9th Cir. 1994), *overruled in part on other grounds*, *Galbraith v. Cty.*
 28 *Of Santa Clara*, 307 F.3d 1119, 1123-24 (9th Cir. 2002). A "defendant may offer such a

1 document, and the district court may treat such a document as part of the complaint, and thus may
2 assume that its contents are true for purposes of a motion to dismiss under Rule 12(b)(6).”
3 *Ritchie*, 342 F.3d at 908. Because the documents in Exhibits 1 through 6, serve as a basis for
4 Plaintiff’s allegations the Court may consider them in connection with Defendants’ concurrently
5 filed motion to dismiss. Additionally, the Court may take judicial notice of these documents as a
6 fact that is not subject to reasonable dispute because it “can be accurately and readily determined
7 from sources whose accuracy cannot be reasonably questioned.” Fed. R. Evid. 201(b).

8

9 Dated: June 14, 2024

PLAZA DE JENNINGS & CHIPMAN LLP

10

11

By: 
Carmen Plaza de Jennings
Jayne Benz Chipman

12

13

14

15

16

17

18

THE FOOTHILL-DE ANZA
COMMUNITY COLLEGE DISTRICT,
DE ANZA COLLEGE, PATRICK J.
AHRENS, LAURA CASAS, PEARL
CHENG, PETER LANDSBERGER, LEE
LAMBERT, GILBERT WONG,
CHRISTINA ESPINOSA-PIEB, ALICIA
CORTEZ, LYDIA HEARN, LLOYD A.
HOLMES, and THOMAS RAY

19

20

21

22

23

24

25

26

27

28